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FA

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/477,704 06/07/95 HINDERKS

M RCH-22164-F-

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WASHINGTON DC 20015

QM02/0518

EXAMINER

KAMEN, N

ART UNIT	PAPER NUMBER
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3747

DATE MAILED:
05/18/00

36

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No. 08/477,709	Applicant(s) Hindorfs
Examiner KAMEN	Group Art Unit 3747

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Response

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☐ Responsive to communication(s) filed on _____.
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 218-347 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☐ Claim(s) _____ is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☒ Claim(s) 218-347 are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____.
 - ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of References Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

Office Action Summary

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DETAILED ACTION

Election/Restriction


1. No claims are entirely generic to a plurality of disclosed patentably distinct species comprising GROUP 1= figures 184, 236, 242, 254, 255, 354, 355, 356, 357, 358, 359, 364, 390, 394, 397, 398, 399, 404, 406, 407, 408, 409, 410, 411, 416, 418, 419, 420; GROUP 2= figures 189, 371, 373, 374, 375, 376. Applicant is required under 35 U.S.C. 121 to elect a single disclosed species from each group, even though this requirement is traversed.
2. Should applicant **traverse** on the ground that the species are not **patentably distinct**, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or **clearly admit** on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or **admission may be used in a rejection** under 35 U.S.C. 103(a) of the other invention.
3. The examiner has reviewed applicant's position regarding the previous election requirements. The applicant asserts that the claims are drawn to a base concept of a rotating/reciprocating element(piston) and that any of the various features can be combined in any combination. The examiner contends that species, by definition, are all related to a "base concept" and that the requirement for an election is precisely because there are possibly hundreds! of combinations/permutations of the base feature with all the other elements-a burdensome search.

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If, for the sake of argument, there is a single species, then is it necessary to have **120** claims??

Applicant's attention is directed to MPEP 2173.05(n).

Inquiries concerning the examiner's action should be directed to Noah Kamen at (703) 308-1945. The supervisory examiner, Henry Yuen, can be called at 308-1946. Fax is 308-7764. Questions of a general nature concerning the application should be directed to the group receptionist at 308-0861.


NOAH KAMEN
PRIMARY EXAMINER
ART UNIT 3747

May 17, 2000